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CALIFORNIA BANK & TRUST,

as Assignee of the FDIC as

Receiver for Vineyard Bank, N.A.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

CALIFORNIA BANK & TRUST,

a California corporation, as Assignee of the
FDIC as Receiver for Vineyard Bank, N.A.

Plaintiff,

vs.

M/Y "CRYSTAL," U.S. Official No. 910447,
and all of Her Engines, Tackle,
Accessories, Equipment, Furnishings
and Appurtenances, *in rem*;

CRYSTAL LLC, a California corporation; and
JOHN J. SEMPRE, an individual, *in personam*,

Defendants.

'09 CV 2029 JM

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CASE NO.:

IN ADMIRALTY

ORDER APPOINTING
SUBSTITUTE CUSTODIAN

Plaintiff CALIFORNIA BANK & TRUST, by and through its attorneys, having
appeared and made the following recitals:

1. On September 16, 2009, the Complaint herein was filed praying that the
Motor Yacht "CRYSTAL," Official Number 910447 (the "Vessel") be arrested,
condemned and sold to pay Plaintiff's demands and claims and for other proper relief.

2. On or about the date printed below in connection with the issuance of this
Order, the Court issued a Warrant for the arrest of the Vessel commanding the United

1 States Marshal for this District to arrest and take into custody the Vessel until further
2 order of this Court respecting same.

3 3. It is contemplated that the United States Marshal will seize the defendant
4 Vessel forthwith. Custody by the United States Marshal requires the services of one
5 or more keepers alone and does not include charges and other services usually
6 associated with safekeeping vessels similar to the defendant Vessel.

7 4. Nielsen-Beaumont Marine, Inc. has agreed to assume the responsibility
8 of safekeeping the Vessel and has consented to act as her substitute custodian until
9 further order of this Court. Nielsen-Beaumont Marine, Inc. shall provide the following
10 services for the safekeeping of the defendant Vessel, as described in the Declaration
11 of Don Beaumont filed concurrently herewith:

12 a. Assume custody from the United States Marshal at the place of her
13 arrest and move the Vessel to Nielsen Beaumont's facility at 2420 Shelter Island Drive,
14 San Diego, CA 92106, and store the vessel at that location or at other facilities operated
15 by Nielsen-Beaumont within the Port of San Diego, until further order of this Court.

16 b. As soon as possible after assuming custody of the Vessel,
17 photograph and/or videotape the interior and exterior of the Vessel, and prepare a
18 written inventory of the equipment and property aboard the Vessel which is not
19 installed as a part of the Vessel.

20 c. Periodically inspect mooring lines and fenders to insure safe and
21 secure mooring of the Vessel.

22 d. Periodically inspect the Vessel for watertight integrity, excessive
23 bilge water and fuel or lubricant leaks.

24 e. Provide additional services such as cleaning, minor maintenance,
25 periodic inspection and cleaning of the bottom of the Vessel by a diver, and such other
26 services which, in Nielsen Beaumont's sole discretion and evaluation, are appropriate
27 for keeping and maintaining a vessel of the type which is the subject of this action.
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1 f. Periodically operate machinery if, in Nielsen Beaumont's sole
2 discretion and evaluation, such operation may be performed without significant risk to
3 the Vessel or to Nielsen Beaumont personnel.

4 g. Provide such other services as may be required from time to time
5 by further order of this Court.

6 5. Nielsen-Beaumont Marine, Inc., as substitute custodian, by the declaration
7 of Don Beaumont, avers that it has supervisory capabilities for the proper safekeeping
8 of the vessel and that it has commercial marine liability insurance with an aggregate
9 coverage limit of \$4,000,000.00. Further, in said Declaration, Nielsen-Beaumont
10 Marine, Inc. accepts, in accordance with the terms of this Order, possession of
11 Defendant vessel, which is the subject of the action herein.

12 6. Plaintiff, in consideration of the United States Marshal's consent to the
13 substitution of custody, agrees to release the United States Marshal from any and all
14 liability and responsibility arising out of the care and custody of the Defendant vessel,
15 from the time the Marshal transfers possession of said vessel over to said substituted
16 custodian.

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19 **THEREFORE, IT IS HEREBY ORDERED**

20 that the United States Marshal for the Southern District of California be, and is hereby
21 authorized and directed, upon seizure of said defendant Motor Yacht "CRYSTAL,"
22 Official Number 910447, pursuant to the process of Maritime Arrest, to surrender the
23 possession thereof to the substitute custodian named herein, and that upon such
24 surrender, shall be discharged from his duties and responsibilities for the safekeeping
25 of said vessel.

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that Nielsen-Beaumont Marine, Inc. be, and is hereby appointed, the custodian of the defendant Motor Yacht “CRYSTAL,” and to tow or arrange for the tow of the Vessel from the location where it is seized to the facilities of Nielsen-Beaumont Marine, Inc. located in the Port of San Diego, CA, and to retain the same in its custody for possession and safekeeping and in accordance with the declaration of Don Beaumont and the recitals herein contained until further order of this Court.

that Nielsen-Beaumont Marine, Inc. may, if deemed by Nielsen-Beaumont in its sole discretion to be necessary or desirable for the proper security and maintenance of the Vessel during the custodial period, tow or arrange for the tow of the Vessel from the location where it is initially stored by Nielsen-Beaumont to other facilities of Nielsen-Beaumont Marine, Inc. located in the Port of San Diego, CA.

that all expenses for the safekeeping of defendant Vessel shall be deemed administrative and custodial expenses of the substitute custodian.

Dated: 9/17/09


JUDGE OF THE
UNITED STATES DISTRICT COURT